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SUBJECT: INITIAL MEETING OF US-ARMENIA EXPORT CONTROL  
WORKING GROUP

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Classified By: AMB Marie L. Yovanovitch, reasons 1.4 (b,d)

#### SUMMARY

1. (S/NF) ISN Acting DAS Ann Ganzer led an inter-agency delegation to the initial meeting of the U.S.-Armenia Export Control Working Group, held April 29-30, 2009, in Yerevan. The working group was formed in accordance with the U.S.-Armenia Joint Action Plan (hereinafter the Plan), recently signed to address conditions that allowed Armenia's facilitation of an arms shipment to Iran. The talks were productive, furthering our understanding of Armenia's export control system and determining areas where improvement is needed. The U.S. discussed the threat posed by illicit efforts to secure conventional arms, the importance of conducting a risk assessment when licensing exports, and developing/implementing catch-all, intangible technology, and brokering controls. In preparation for the meeting, the Armenian Prime Minister signed a decree establishing a Deputy Minister-level committee to address export control issues. The Armenian side discussed its efforts to implement UNSCR 1540 and other nonproliferation-related resolutions related to Iran (i.e., 1747, 1803 and 1835), Armenia's dual-use export control system, industry outreach efforts, and internal compliance requirements. The U.S. committed to get a team of experts to Armenia as quickly as possible to help Armenia revise its munitions control list and Armenia advised it would provide the U.S. with a proposed roadmap to implement its commitments in the Plan. End Summary

#### US BRIEFINGS

2. (C) Briefing on Illicit Arms Trafficking Efforts: ISN/CATR representative Margaret Mitchell provided a brief overview of the primary sources of illicit arms (black/grey markets; indigenous production; and State Sponsors of Terrorism). Examples were provided of illicit arms transfers actually conducted in each category. No questions resulted from the briefing, though several Armenian participants were carefully taking notes. The briefing was intended to be illustrative and point out how illicit trafficking occurs, thus emphasizing the need for strong, effective export controls.

3. (SBU) Conducting Risk Assessments for Licensing: Mitchell briefed on how to conduct a Risk Assessment, providing copies of a short paper on the purposes of a risk assessment and the

Wassenaar Arrangement's Effective Elements for Analyzing Destabilizing Accumulations., Both documents give details of the factors that should be taken into account when considering an export application and the types of questions the government should ask itself when reviewing an application. Mitchell noted that licenses needed to be reviewed on a case-by-case basis, because not all questions would apply in each case or the answer might be different depending on recipient. DTSA representative Nicholas Mihnovets noted the same considerations should be made with regard to dual-use exports.

14. (SBU) Arms Brokering: Mitchell discussed the necessary elements for effective arms brokering legislation. She noted that the U.S. was much more expansive than other countries controls as it covered U.S. citizens wherever they were in the world. Many countries consider this to be extra-territorial, but Mitchell added that the UK recently expanded its brokering controls on small arms to cover UK citizens globally. A copy of the Wassenaar Arrangement's Effective Elements for Arms Brokering Legislation, was provided as an example of minimum requirements.

15. (SBU) U.S. Briefing on Catch-All Controls, End-Use Controls and Intangible Technology Transfers: U.S. Department of Commerce representative Patricia Muldonian provided an overview of the key elements of end-use/end-user controls (catch-all) and Intangible Technology Transfers (ITT). Muldonian's presentation on catch-all controls generated a substantial discussion, particularly related to how a government can implement such a broad control. For example, the Armenian side was unsure of how a company should know that an item could be used in a program of concern

and therefore required to get an export license when the item is otherwise uncontrolled. Muldonian responded that it is important for an exporter to understand the potential applications of its product(s) and this is where government-industry outreach is important. If the government becomes aware that a particular commodity can be used in a program of concern, it should inform industry of this and exporters would then know an export license is required. The Armenians pushed further by asking why an exporter would submit an export license application, commenting that companies want to make money and getting government approval for an export could prevent this. Muldonian explained that an export license is not a punishment; rather it is just an additional step in the export process. The vast majority of U.S. licenses are approved, but to ensure that exporters not supporting, even inadvertently, a program of concern, it is important to get an export license.

16. (SBU) Continuing, the Armenian delegation asked numerous questions about U.S. licensing practices and procedures, including licensing processing practices, interagency dispute resolution procedures, as well as enforcement and Customs practices. At the conclusion of this discussion the Armenian delegation noted that it is drafting a law/rule that would have the government provide assurances about the end-use of an item. Specifically, the Government of Armenia stated its intent to issue an Import Certificate Requirement/End-Use Assurance Requirement for items that will be exported to and imported in Armenia. (Comment: It will be necessary for Armenia to adopt catch-all controls in Armenian legislation and implementing regulations, as well as enhancing transparency and outreach to industry. End Comment)

17. (SBU) Intangible Transfers of Technology: As with the discussion of catch-all controls, the Armenian delegation's awareness of the issue was mixed. Most understood that if an item or its associated technology is sensitive enough to be on a multilateral control list, it should be controlled regardless of how the information is transmitted either by tangible form, such as a blueprint or by intangible form, such as an e-mail, fax, or telephone. However, Armenia is resistant to adopting and implementing ITT controls and related enforcement. Much of the discussion centered on how the government can require a company to get an export license

to make a phone call or send an e-mail. The U.S. acknowledged that enforcement is a challenge, but emphasized the methods for controlling and enforcing intangible transfers are in reality no different than a traditional "tangible" export. Government outreach to industry is critical to enforcement. In addition, the government can explain to companies that once they sell the technology, demand for the actual product decreases. (Comment: To address some of Armenia's deficiencies it will be necessary for the GOAM to adopt broad legislation and implementing regulations, enhance industry outreach and improve export control enforcement. End Comment)

#### ARMENIAN PRESENTATIONS

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¶8. (C) Armenian Presentations: The Armenian delegation prepared its presentations overnight, because most members of the delegation were not informed of the meeting until the day before or day of the meeting. Despite this, the presentations were detailed and the Armenians very responsive to questions.

¶9. (SBU) UN Security Council Resolutions Implementation: The GOAM provided a review of its implementation of United Nations Security Council Resolution (UNSCR) 1540. At the end of 2008 Armenia submitted the required report to the UNSCR 1540 committee and a request for technical assistance. Concerning the money laundering component of UNSCR 1540, a delegation from the Council of Europe recently visited Armenia and had drafted a report on Armenia's ability to combat money laundering and issued a set of recommendations for Armenia to implement. After the final report is submitted, the GOAM will have a meeting to discuss how it can implement the recommendations and in what areas the government will need outside assistance.

¶10. (SBU) Regarding the UNSCRs on Iran, the GOAM reported that it already has all the necessary laws and regulations in place to implement all of the requirements of the various resolutions. Once a resolution is adopted, the government distributes the resolution throughout the government and informs the relevant agencies what measures need to be

implemented on specific entities or countries. Armenian seizure of assets law provides the ability to seize cargo and the Customs Code gives Armenia the authority to inspect cargo if it is suspect, regardless of the origin of the carrier or the goods. Existing laws/regulations also cover cargo in transit or that which is being transshipped. If there are questions about the cargo, the GOAM may detain it while it investigates whether the cargo is in contravention of any UNSCRs. When asked how these provisions have been implemented, the Armenian delegation indicated there has never been a case where this authority has been exercised. The GOAM does not publish a list of proscribed entities, which makes it difficult for exporters to know whether they can export an item unless the exporter himself checks all the UN resolutions for sanctioned entities. The GOAM does maintain internal lists of sanctioned entities and people subject to travel bans, and advised that exporters would be informed that the entity was proscribed when an export license was denied. The GOAM also noted that it is having some difficulties in handling exports from Russia to Iran and from Iran to Georgia, but did not provide any additional details on the specific problems.

¶11. (SBU) Armenian Dual-Use Export Control Process: The GOAM provided an overview of its internal review process for dual-use exports. In general, an exporter submits a request for an export permit to the Chamber of Commerce, which classifies the product. In certain cases, the export permit application is sent to the Nonproliferation Center (NPC), which determines if the item is covered under the dual-use list and whether it requires a license. In cases where a license is required, the permit application is reviewed by the Export Control Commission, which consists of the National Security Service, Customs, Chamber of Commerce, office of the

Prime Minister, and the Ministries of Economy, Defense, and Foreign Affairs. Each agency conducts its review and provides a recommendation on whether to approve the application. All members of the commission must agree on approving the application, otherwise it is denied. In 2008, Armenia had fewer than 20 licenses and denied only one. Unlike the U.S., where licensing decisions are not subject to judicial review, the Armenian system uses its judicial branch as the final arbiter of GOAM licensing decisions. (Note: Additional details on this process are available in the Export Control and Related Border Security report & Strategic Trade Controls in the Republic of Armenia, 2009"; End Note). In response to a question from Ganzer, the GOAM indicated that it does have a governmental decree that outlines the questions or issues to consider when reviewing a license, which is available to the public. In response to Mihnovets, question, the GOAM stated that an Armenian export license would be required when an Armenian entity acts as a broker (intermediate consignee) for shipment of export-controlled goods from one country to another even if the goods do not enter Armenian territory. Touching on Armenia's enforcement of its export controls, the GOAM reported that there are very strict penalties for export control violations, and that there had recently been a case of four individuals being sentenced to six years in prison for falsifying documents for goods that were subsequently exported.

¶12. (C) To help ensure that Armenian companies comply with export controls, an MFA official said that all laws are publicly available on the Internet and that the government holds a biannual conference for industry on Armenia's export controls. (Comment: Although the Armenians said their control lists are publicly available, only the dual-use list is public. Armenia has published a decree saying it has a munitions control list, but the list itself is not public. End Comment)

¶13. (SBU) Munitions Controls: Any import/export of munitions is done by government decree and licenses are considered by the "Republican Military- Technical Commission. In October 2008, the GOAM started internal discussions to adopt the Wassenaar Arrangement's munitions list, but opposition was encountered, because the list is large and only provides a general description of the goods controlled. The GOAM is revising its munitions list; is looking to remove items that properly belong on the dual-use control list; and hopes to have a new decree issued within weeks. The Armenian delegation asked the U.S. to provide technical assistance on revising the munitions list; they are looking for experts to help in determining how items should be classified and distinguishing between dual-use items and munitions items. Acting DAS Ganzer promised to send a team out to Yerevan as soon as possible. Ganzer also emphasized the importance of

making the munitions list publicly available once it is revised.

¶14. (U) Outreach to Industry/ICP: The Ministry of Economy briefed on its work with industry; in short, it works to make it easier for the exporter to conduct its business. There are no guidelines on Internal Compliance Programs (ICP), but Armenian law obligates industries to have their own plans.

#### US OFFER TO EXPAND EXBS ASSISTANCE

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¶15. (U) Expanded EXBS assistance: In addition to offering to provide a team of experts to assist the GOAM in refining its munitions and dual-use control list, the U.S. side proposed to substantively increase EXBS activities with Armenia to enhance its export control system. The U.S. side provided for GOAM consideration a list of proposed EXBS activities in the legal/regulatory, licensing, industry outreach, and enforcement areas. The list was described as a starting point for discussions on future EXBS activities and GOAM officials were encouraged to provide feedback on these activities and to identify other areas of interest.

¶16. (C) Meeting with Deputy Foreign Minister: Ambassador Yovanovitch and Acting DAS Ganzer met with the DFM Kirakossian to report on the meetings and next steps on implementing the Plan. Ganzer noted the discussions were positive and a few areas for immediate cooperation were noted. She promised to send a delegation out to Yerevan as quickly as possible to work on revising Armenia's munitions control list and a delegation to provide assistance in drafting laws and regulations. Ganzer also noted some broad areas for improvement, such as increased transparency of Armenia's export control system, particularly by making public the munitions control lists. It will also be important for the political leaders in Armenia to direct the working level experts to quickly and effectively revise Armenia's export controls. She also noted that working levels should be able to get together right away; there was no need for Deputy Minister level action.

¶17. (C) Deputy Foreign Minister Kirakossian reported the Prime Minister had formed a committee to work on implementing the Plan. The committee is held at the deputy minister level with officials from various ministries. Kirakossian said the committee needed to prepare a timetable of the necessary legal acts and then implementing reforms. Ambassador Yovanovitch noted it would be helpful to come up with next steps within the next few weeks and Kirakossian indicated the GOAM would have the list in two weeks (May 14). Ganzer also noted at the end that she had seen reports of agreements signed with Iran recently and asked if any of them might impact the Plan. Kirakossian said he would provide copies of the agreements, but indicated they did not amount to much substance; for example there was no agreement on trade.

COMMENT

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¶18. (C) GOAM officials said all the right things and provided the appearance that it has many of the authorities in place that meet international export control standards. However, though the GOAM has laws and regulations in place, there was little indication of enforcement or need for additional laws, such as those related to catch-all controls or ITT. For example, Armen Yedigarian, Head of the MFA's Arms Control and International Security Department, , stated that the U.S. and Armenia were approaching export controls from different levels. He said exporting was critical to Armenia's survival especially when the economy is bad and people are just trying to make money. A key theme that will need to guide future engagement with the GOAM will be increasing transparency of the export control system, enforcement of its existing export controls, and industry outreach. While the first meeting of the working group was put together on short notice, the GOAM demonstrated an ability to quickly put together a delegation and presentations. This is a positive indication that Armenia is taking its commitments in the Joint Action Plan seriously. Regular engagement on this issue will be critical over the coming months to ensure Armenia continues to make progress.

YOVANOVITCH